IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10426 of 2004

with
Special Civil Applications Nos. 10466 of 2004 and 10467 of 2004

For Approval and Signature:

HON'BLE DR.JUSTICE J.N.BHATT
and
HON'BLE MR. JUSTICE ANANT S DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

JIVARAJBHAI GANESHBHAI

Versus

SPECIAL LAND ACQUISITION OFFICER

Appearance:
MR NITIN M AMIN for Petitioner No. 1-2
Mr. Pandya, AGP for Respondent No. 1-2

CORAM : HON'BLE DR.JUSTICE J.N.BHATT
and
HON'BLE MR. JUSTICE ANANT S DAVE

Date of decision: 25/10/2004

COMMON ORAL JUDGEMENT

(Per : HON'BLE DR.JUSTICE J.N.BHATT)

1. Rule, service of which is waived by learned Assistant Government Pleader, Mr. Pandya, on behalf of the respondents in each petition.

2. In this group of three writ petitions, common question is involved and, therefore, upon consensus and joint request, all the three petitions are taken up today for final hearing.

3. The petitioners have claimed additional amount of compensation on the basis of the award of the Court by way of redetermination by invocation of provision of Section 28-A of the Land Acquisition Act, 1894 ('Act' for short). So far as the facts are concerned, there is no any dispute about them. Equally well, is the fact that the applications were made by the petitioners to the respondent No.1, Special Land Acquisition Officer, Narmada Project, Saurashtra Canal Unit No.III, on 23rd March 2000, pursuant to the award under Section 11 of the Act dated 20th August 1995. Along with other lands of the petitioners, the lands of other owners had also been acquired by the same notification under Section 4 of the Act. Whereas the petitioners had not preferred references by invoking provision of Section 18 of the Act, the other land owners, upon a reference under Section 18 of the Act in the District Court, Ahmedabad (Rural), got enhancement of compensation along with other statutory benefits under the Act. That is the reason why the petitioners had made applications for redetermination of compensation under Section 28-A of the Act on 23rd March 2000 to the respondent No.1, which have not yet been, admittedly, determined and resolved.

4. This is really very unfortunate and surprising that, despite fixity of time frame of maximum six months within which the applications for redetermination are required to be considered and determined in light of the Circular of the Government dated 10th March 1997, the applications of the petitioners have not been decided. Again, this Court raised its judicial voice in a Division Bench decision rendered in the case of Patel Kantilal Vitthaldas vs. State of Gujarat, reported in 43 (1) GLR 49.

5 The land losers and the dropout cases like the petitioners, who are initially not adequately compensated in terms of the provision of Section 23 of the Act, need to be considered for redetermination for compensation in

light of the award under reference in terms of the provision of Section 18 of the Act, by virtue of an amendment and addition in Section 28-A of the Act in 1984, which was very well conceived by the Parliament in its wisdom. Thereafter also, it was thought proper and expedient to issue circular dated 10th March 1997, which clearly says, and unequivocally stipulates, that the applications under Section 28-A of the Act had to be sent by the concerned Authorities within the period of three weeks and within the period of six months the award be accepted and the compensation be paid. Here, the delay is almost more than four years. No reasonable explanation has been given. When the Authorities are not complying with the mandate of law, or circular issued by them, the faith of the commoner, more so the land losers, is very much shaken about not only the ability, but also the authenticity of the administrative mechanism. It was, in this context, that this Court in the aforesaid decision was constrained to direct the Authority to submit a report fixing the liability with reference to the period and the amount of interest which the State Exchequer had to suffer. In that case, it is reported that the delay was of more than two years, whereas, in the group of petitions on hand, the delay is more than four years. It is also stated in the petitions as well as at the Bar that the group of First Appeals against the award made by the District Court under Section 18 of the Act came to be decided by this Court latest on 4th May 2001. Despite that, the respondents-Authorities have remained, conspicuously, pathetic, indifferent and indolent for the rights of the petitioners. It is, therefore, now necessary to direct the concerned respondents-Authorities for expeditious determination of the applications under Section 28-A of the Act.

6. The respondent No.1, Special Land Acquisition Officer, Narmada Project, Saurashtra Canal Unit No. III, shall consider and determine the applications of the petitioners under Section 28-A of the Act and shall decare the award in each application on or before 15th December 2004, failing which, the respondent No.1 shall submit a report for the delay to the Registry of this Court, else, further necessary orders shall be passed.

7. We are, also, of the clear opinion that further directions for wanton apathy, indolence and indifference on the part of such Authorities are warranted. The Chief Secretary of the State of Gujarat is directed to direct the Senior Secretary of the concerned Department under which the respondent No. 1 is working, to hold an enquiry and ascertain who are responsible for

non-observance of mandate of the Circular dated 10th March 1997 of Road & Building Department and obtain a report with regard to liability with reference to period and the amount of interest which the State Exchequer had to suffer, and such statements, enquiry papers along with the report of the Chief Secretary shall be placed before this Court on or before 30th December 2004. In case if such report is not received by the Registry, it will be incumbent upon the Registry to bring non-compliance of the direction to the notice of this Court for further appropriate necessary directions/orders.

8. In view of the aforesaid directions and observations, all the three petitions are allowed. Rule is made absolute in each petition with costs, which is quantified at Rs.5,000/- (Rupees five thousand only) in each petition.

Direct service is permitted.

(Dr.J.N. Bhatt, J.)

(Anant S. Dave, J.)
(swamy)